§ 234. Right to recover attorneys' fees in actions or summary proceedings arising out of leases of residential property. 1. Whenever a lease of residential property shall provide that in any action or summary proceeding the landlord may recover attorneys' fees and/or expenses incurred as the result of the failure of the tenant to perform any covenant or agreement contained in such lease, or that amounts paid by the landlord therefor shall be paid by the tenant as additional rent, there shall be implied in such lease a covenant by the landlord to pay to the tenant the reasonable attorneys' fees and/or expenses incurred by the tenant as the result of the failure of the landlord to perform any covenant or agreement on its part to be performed under the lease or in the successful defense of any action or summary proceeding commenced by the landlord against the tenant arising out of the lease, and an agreement that such fees and expenses may be recovered as provided by law in an action commenced against the landlord or by way of counterclaim in any action or summary proceeding commenced by the landlord against the tenant. A landlord may not recover attorneys' fees upon a default judgment. Any waiver of this section shall be void as against public policy.

2. Notwithstanding the provisions of subdivision one of this section, where a tenant is a dwelling unit owner or shareholder of a cooperative housing corporation, other than a cooperative housing corporation subject to the provisions of article two, article four, article five or article eleven of the private housing finance law, attorney's fees may be awarded to either party in the event of default judgment if recovery of attorney's fees is provided for in the proprietary lease or occupancy agreement.